

REMARKS/ARGUMENTS

Favorable reconsideration of this application as currently amended and in light of the following discussion is respectfully requested.

Claims 1-26 and 28-41 are currently pending. The present Amendment amends Claims 1, 3, 6, 7, 11, 13, 16, 17, and 28; cancels Claim 27 without prejudice or disclaimer; and adds Claims 36-41. The changes and additions to the claims are supported by the originally filed application. No new matter has been added.

In the outstanding Office Action, Claims 1-35 were rejected under 35 U.S.C. § 102(b) as being anticipated by Strevey et al. (U.S. Patent No. 6,035,305, herein "Strevey").

First, Applicant wishes to thank the Examiner for the courtesy of a telephone interview granted to Applicant's representative in sister application serial no. 10/712,009 on May 24, 2005, at which time the outstanding issues in this case were discussed. Although an agreement could not be reached, the Examiner appeared to favorably consider the "mass management module" of Claims 3 and 13 as possibly being allowable, but only if "mass" was further explained in a formal response. Applicant thus provides such an explanation below.

In response to the rejection of independent Claims 1 and 11, and in the spirit of moving prosecution forward, Claim 1 is amended to recite "said means for describing comprising a mass management module" and Claim 11 is amended to recite "said processor comprising a mass management module."

The Office Action asserts at page 3 that column 9, lines 1-14, of Strevey teaches "the mass management module is configured to manage mass of a customized configuration from data supplied from the contract management module." Applicant respectfully disagrees and notes that the cited passage merely describes modules that "represent sets, or packages, or parts, plans, tools, functional tests, inspections, or software that are to be included in the product" and further defines two classes of modules: the dependent modules that have a

relationship with two or more options and the independent modules that are related to one or more options and are configured upon the selection of exactly one option. A person of ordinary skill in the art would understand the “mass management” as pertaining to the “mass,” i.e., in kilograms, for example, of the selected components, or of the entire product, or of how many passengers or how much luggage can be carried for various configurations of an aircraft, for example. Applicant notes that (1) the cited passage discusses modules “to be included in the product” that is being designed and is therefore not concerned with any component of the system that is designing the product and managing what is to be included in the product; and (2) the modules do not teach or suggest any “mass management module.” Therefore, the “mass management module” of amended independent Claims 1 and 11 is not taught or suggested by the cited passage and Strevey’s modules, whatever else they may be, do not possess the necessary functional relationship with other claimed elements, i.e., Strevey’s modules are not comprised in the means for describing, for example.

In response to the rejection of independent Claim 29, Applicant respectfully requests reconsideration of the rejection and traverses the rejection for the reasons set forth below.

Applicant’s invention, as recited in Claim 29, is directed to a system to structure and manage a fleet of vehicles, including: (1) means for describing a plurality of sets of technical objects, each of the sets representing manufacturing options for a vehicle in the fleet, and each technical object either representing a vehicle function or describing an implementation method for making a vehicle configuration; and (2) means for updating, for each of the sets, a definition of each technical object and its inter-relations with other technical objects in that set, the definition being stored in a dynamic database and comprising an expression of rules and constraints.

The Office Action rejects independent Claim 29 in conjunction with Claims 1 and 11 at page 2. However, Applicant notes that the rejection, although it indicates Claim 29, does

not actually assert that all the features of Claim 29 are taught by Strevey. For example, the rejection asserts that Strevey teaches “means for describing a set of technical objects,” as recited in Claim 1, and similarly recited in Claim 11, but does not make any assertion regarding the “means for describing *a plurality of sets of technical objects*” feature of Claim 29. Similarly, the Office Action does not asserts that “means for updating, *for each of said sets*” is taught or suggested by Strevey. Applicant respectfully submits, as clearly evidenced, for example, by the use of the singular in “a configuration of *a* complex product, such as *a* commercial aircraft”¹ that Strevey does not teach or suggest the “plurality of sets of technical objects” and “means for updating, *for each of said sets*” features of Claim 29, nor any of the “fleet” features dependent thereupon.

Applicant notes that the Office Action states at page 5 that “Strevey discloses industrial product (fleet) is an aircraft and helicopters (it is inherent that the computer base system and method can implemented for a plurality a complex product such as aircraft, see abstract and, column 3, lines 22-40,” but asserts that the abstract still mentions “an industrial product,” not a plurality of industrial products, and that the cited passage does not related in any way to a fleet. Applicant respectfully submits that the Office Action assertion is insufficient to show that Strevey inherently teaches the claimed “fleet” because it fails to show “that the alleged inherent characteristic necessarily flows from the teachings of the applied prior art.”²

¹ Strevey, column 3, lines 39-40.

²See MPEP 2112 (emphasis in original) (citation omitted). See also same section stating that “[t]he fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic,” (emphasis in original). See also In re Robertson, 49 USPQ2d 1949, 1951 (Fed. Cir. 1999) (“[t]o establish inherency, the extrinsic evidence ‘must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill,’” citing Continental Can Co. v. Monsanto Co., 948 F2d 1264, 1268, 20 USPQ2d 1746, 1749 (Fed. Cir. 1991); and “[i]nherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient,” Id. at 1269 (citation omitted)).

Therefore, Strevey fails to teach or suggest every feature recited in Applicant's amended independent Claims 1, 11, and 29 so that Claims 1-26 and 28-35 are patentably distinct over Strevey. Specifically, Strevey fails to teach or suggest at least the "mass management module" recited in amended independent Claims 1 and 11, and the "means for describing *a plurality of sets* of technical objects" and "means for updating, *for each of said sets*, a definition," recited in independent Claim 29. Accordingly, Applicant respectfully requests reconsideration of the rejection of Claims 1-26 and 28-35 based on the Strevey patent.³

In addition, Applicant notes regarding Claims 6 and 16 that the Office Action asserts that it is inherent that the system works in a connected mode and thus teaches "a connected or disconnected mode." Claims 6 and 16 are amended to solely recite "a disconnected mode" thus overcoming the rejection.

Applicant further notes that regarding Claims 7, 17, and 33 that the Office Action did not assert that Strevey teaches the "ATA chapter." Claims 7, 17, and 33 are amended to no longer recite the other two alternatives and solely recite the "ATA chapter" thus overcoming the rejection. The other two alternatives originally recited in Claim 7, "job category" and "sales policy," have been moved into new dependent Claims 36-41 which thus finds non-limiting support in the originally filed application.

Consequently, in view of the present amendment, no further issues are believed to be outstanding in the present application, and the present application is believed to be in condition for formal Allowance. A Notice of Allowance for Claims 1-26 and 28-41 is earnestly solicited.

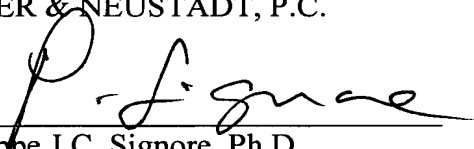
³ See M.P.E.P. 2131: "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference," (Citations omitted) (emphasis added). See also M.P.E.P. 2143.03: "All words in a claim must be considered in judging the patentability of that claim against the prior art."

Application No. 10/706,939
Reply to Office Action of June 6, 2005

Should the Examiner deem that any further action is necessary to place this application in even better form for allowance, the Examiner is encouraged to contact Applicant's undersigned representative at the below listed telephone number.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

A handwritten signature in black ink, appearing to read "P. Signore", is written over a horizontal line.

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